

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 609

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

AN ACT

RELATING TO HEALTH CARE; ENACTING THE MANDATED COMMUNITY  
TREATMENT ACT; PROVIDING FOR MANDATED COMMUNITY TREATMENT  
SERVICES TO TREAT MENTAL ILLNESS; PROVIDING FOR PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the  
"Mandated Community Treatment Act".

Section 2. DEFINITIONS.--As used in the Mandated  
Community Treatment Act:

A. "brain injury" means an injury to the brain of  
traumatic or acquired origin resulting in total or partial  
functional disability or psychosocial impairment, and "brain  
injury" applies to open and closed head injuries;

B. "capacity" means a person's ability to  
understand and appreciate the nature and consequences of

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1 proposed mental health treatment, including significant  
2 benefits and risks and alternatives to the proposed mental  
3 health treatment, and to make and communicate an informed  
4 mental health treatment decision;

5 C. "department" means the human services  
6 department;

7 D. "developmental disability" means a severe  
8 chronic disability that:

9 (1) is attributable to a mental or physical  
10 impairment or a combination of mental or physical impairments;

11 (2) is manifested before a person reaches  
12 twenty-two years of age;

13 (3) is expected to continue indefinitely;

14 (4) results in substantial functional  
15 limitations in three or more of the following areas of major  
16 life activities:

17 (a) self-care;

18 (b) receptive and expressive language;

19 (c) learning;

20 (d) mobility;

21 (e) self-direction;

22 (f) capacity for independent living; or

23 (g) economic self-sufficiency; and

24 (5) reflects a person's need for a combination  
25 and sequence of special interdisciplinary or generic treatments

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1 or other supports and services that are of lifelong or extended  
2 duration and that are individually planned or coordinated;

3 E. "mandated community treatment" means outpatient  
4 services ordered by a court, including case management services  
5 or assertive community treatment team services, prescribed to  
6 treat a person's mental illness and to assist a person in  
7 living and functioning in the community or to attempt to  
8 prevent a relapse or deterioration that may reasonably be  
9 predicted to result in harm to the person or another, in  
10 serious attempts of suicide or in the need for involuntary  
11 hospitalization;

12 F. "mandated community treatment program" means a  
13 program that arranges and coordinates the provision of mandated  
14 community treatment, including monitoring treatment compliance  
15 by patients; evaluating and addressing the conditions or needs  
16 of persons subject to mandated community treatment; and  
17 ensuring compliance with court orders;

18 G. "mental illness" means a substantial disorder of  
19 a person's emotional processes, thoughts or cognition that  
20 grossly impairs judgment, behavior or capacity to recognize  
21 reality, but does not mean developmental disability or brain  
22 injury;

23 H. "patient" means a person receiving mandated  
24 community treatment pursuant to a court order;

25 I. "physician" means a medical doctor or

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1 psychologist licensed in New Mexico who by training or  
2 experience is qualified to work with individuals with mental  
3 illness;

4 J. "provider" means an individual or organization  
5 licensed, certified or otherwise authorized or permitted by law  
6 to provide diagnosis or mental health treatment in the ordinary  
7 course of business or practice of a profession; and

8 K. "respondent" means a person who is alleged in a  
9 petition, filed pursuant to the provisions of the Mandated  
10 Community Treatment Act, to meet the criteria for mandated  
11 community treatment.

12 Section 3. PROVIDERS--MANDATED COMMUNITY TREATMENT  
13 PROGRAM.--A provider may operate, direct and supervise a  
14 mandated community treatment program pursuant to the Mandated  
15 Community Treatment Act upon approval by the department.  
16 Providers may coordinate efforts to provide joint mandated  
17 community treatment programs. Nothing in the Mandated  
18 Community Treatment Act shall be construed to affect the  
19 ability of a provider to receive, admit or retain patients who  
20 otherwise meet the provisions of that act regarding receipt,  
21 retention or admission.

22 Section 4. MANDATED COMMUNITY TREATMENT--CRITERIA.--

23 A. A person may be ordered to obtain mandated  
24 community treatment if the court finds that there is no  
25 appropriate and feasible less-restrictive alternative and that

1 the person:

2 (1) lacks capacity;

3 (2) is eighteen years of age or older;

4 (3) is suffering from a mental illness;

5 (4) refused voluntary mental health treatment  
6 designed to address the issues or behavior that gave rise to  
7 the petition or is unlikely to participate substantially in the  
8 voluntary treatment;

9 (5) in view of the person's treatment history  
10 and current behavior, is in need of mandated community  
11 treatment in order to prevent a relapse or deterioration that  
12 would likely result in serious harm to the person or another  
13 person;

14 (6) will likely benefit from mandated  
15 community treatment; and

16 (7) whose lack of compliance with treatment  
17 for mental illness that, prior to the filing of the petition,  
18 has resulted in at least one of the following:

19 (a) at least twice within the last  
20 forty-eight months been a significant factor in necessitating  
21 hospitalization or necessitating receipt of services in a  
22 forensic or other mental health unit or a correctional  
23 facility;

24 (b) resulted in one or more acts of  
25 serious violent behavior toward self or others or serious

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1 threats of, or attempts at, serious physical harm to self or  
2 others within the last forty-eight months;

3 (c) resulted in the person being  
4 hospitalized or incarcerated for at least six months for acts  
5 other than petty misdemeanors and the person is to be  
6 discharged or released within the next thirty days; or

7 (d) resulted in the person being  
8 hospitalized or incarcerated for a period of six months or more  
9 and the person was discharged or released within the past sixty  
10 days.

11 B. If the person has an advance directive or a  
12 personal representative, agent, surrogate, guardian or  
13 individual designated by the person to make mental health care  
14 treatment decisions, the court shall consider any advance  
15 directives or directions by the personal representative, agent,  
16 surrogate, guardian or individual designated by the person in  
17 determining the written treatment plan.

18 C. A court shall consider the person's explicit  
19 directions in a valid advance directive in consideration of  
20 ordering mandated community treatment, except if the treatment  
21 requested:

22 (1) is infeasible, medically ineffective or  
23 unavailable; or

24 (2) conflicts with other applicable law.

25 D. A court may not order mandated community

1 treatment if it finds a need for involuntary commitment  
2 pursuant to the Mental Health and Developmental Disabilities  
3 Code.

4 E. A court shall not enter any order requiring  
5 treatment or services that would contradict the person's  
6 explicit directions in a valid advance directive that was in  
7 effect prior to the filing of the petition for an order  
8 authorizing mandated community treatment, except that an  
9 advance directive stating that no mandated community treatment  
10 should be imposed may be contradicted if the provisions of the  
11 Mandated Community Treatment Act are met.

12 Section 5. PETITION TO THE COURT.--

13 A. A petition for an order authorizing mandated  
14 community treatment may be filed in the district court in the  
15 county in which the respondent is present or reasonably  
16 believed to be present. A petition shall be filed only by the  
17 following persons:

18 (1) a person eighteen years of age or older  
19 who resides with the respondent;

20 (2) the parent or spouse of the respondent;

21 (3) the sibling or child of the respondent,  
22 provided that the sibling or child is eighteen years of age or  
23 older;

24 (4) a treatment guardian;

25 (5) the director of a hospital where the

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1 respondent is hospitalized;

2 (6) the director of a public or charitable  
3 organization or agency or a home where the respondent resides  
4 or that provides mental health services to the respondent;

5 (7) a treating physician, where practicable;

6 (8) a provider or social services official of  
7 the city or county where the respondent is present or  
8 reasonably believed to be present;

9 (9) a parole officer or probation officer  
10 assigned to supervise the respondent;

11 (10) an authorized law enforcement officer who  
12 has completed crisis intervention training; or

13 (11) a person designated under a valid mental  
14 health care treatment advanced directive who is the authorized  
15 agent according to the provisions of the Mental Health Care  
16 Treatment Decisions Act and who has personal knowledge of the  
17 respondent and the facts as required in Subsection B of this  
18 section.

19 B. The petition shall include:

20 (1) each criterion for mandated community  
21 treatment pursuant to Section 4 of the Mandated Community  
22 Treatment Act;

23 (2) facts that form the basis of the  
24 petitioner's knowledge of the respondent and the respondent's  
25 behavior, and that support the petitioner's belief that the

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1 respondent meets each criterion for mandated community  
2 treatment as set forth in Section 4 of the Mandated Community  
3 Treatment Act; provided that the hearing on the petition need  
4 not be limited to the stated facts; and

5 (3) whether the respondent is present or is  
6 reasonably believed to be present within the county where the  
7 petition is filed.

8 C. The petition shall be accompanied by an  
9 affidavit of a physician, who shall not be the petitioner,  
10 which shall state that:

11 (1) no more than ten days prior to the filing  
12 of the petition for mandated community treatment, the  
13 respondent was offered voluntary mental health treatment  
14 designed to address the issues or behavior that gave rise to  
15 the petition and that the respondent either refused or was  
16 unlikely to participate substantially in voluntary treatment;

17 (2) the physician has personally examined the  
18 respondent no more than ten days prior to the filing of the  
19 petition, or that the physician or the physician's designee has  
20 made appropriate attempts to elicit the cooperation of the  
21 respondent but has not been successful in persuading the  
22 respondent to submit to an examination; and

23 (3) the physician has reason to believe, based  
24 on reliable information available to the physician, that the  
25 respondent meets the criteria for mandated community treatment,

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1 that the physician recommends mandated community treatment for  
2 the respondent and that the physician is willing and able to  
3 examine the respondent and testify at the hearing on the  
4 petition.

5 Section 6. HEARING--EXAMINATION BY A PHYSICIAN.--

6 A. Upon receipt of the petition, the court shall  
7 fix a date for a hearing no later than seven days after the  
8 date of service or attempted service. A copy of the petition  
9 and notice of hearing shall be served in the same manner as a  
10 summons on the petitioner, the respondent, the physician whose  
11 affirmation or affidavit accompanied the petition, the provider  
12 and any other person the court deems advisable.

13 B. The respondent shall be represented by counsel  
14 at all stages of the proceedings. In the event the respondent  
15 does not retain counsel, the court shall appoint an attorney,  
16 who shall be paid a reasonable fee from the court-appointed  
17 attorney fee fund administered by the administrative office of  
18 the courts.

19 C. On motion of any party or on its own motion, the  
20 court may extend the date of the hearing, if deemed necessary,  
21 to provide reasonable opportunity for the respondent's attorney  
22 to adequately review the recommended mandated community  
23 treatment plan.

24 D. If the respondent fails to appear at the hearing  
25 after notice, and significant attempts to elicit the attendance

1 of the respondent have failed, the court may conduct the  
2 hearing in the respondent's absence. If the hearing is  
3 conducted without the respondent present, the court shall set  
4 forth the factual basis for conducting the hearing without the  
5 presence of the respondent.

6 E. The court shall not order mandated community  
7 treatment for the respondent unless a physician, who has  
8 personally examined the respondent of the petition within ten  
9 days prior to the filing of the petition, testifies in person  
10 at the hearing. Testimony shall include:

11 (1) the facts that support the allegation that  
12 the respondent meets each criterion for mandated community  
13 treatment and that the treatment is the least restrictive  
14 alternative or least drastic means;

15 (2) the recommended mandated community  
16 treatment and the rationale for the recommended mandated  
17 community treatment, including the efficacy of such treatment;  
18 and

19 (3) if the recommended mandated community  
20 treatment includes medication, the types or classes of  
21 medication that should be authorized, the beneficial and  
22 detrimental physical and mental effects of such medication and  
23 whether such medication should be self-administered or should  
24 be administered by an authorized professional.

25 F. If the respondent has refused to be examined by

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1 a physician and the court finds reasonable grounds to believe  
2 that the allegations of the petition are true, the court may  
3 direct a law enforcement officer to take the respondent into  
4 custody and transport the respondent to a provider for  
5 examination by a physician. Upon the request of a physician,  
6 the court may request a provider to transport the respondent to  
7 a hospital operating a mandated community treatment program or  
8 to any other hospital authorized to receive such persons. The  
9 examination of the respondent may be performed by the physician  
10 whose affidavit accompanied the petition. If the examination  
11 is performed by another physician, the examining physician  
12 shall be authorized to consult with the physician whose  
13 affidavit accompanied the petition. No respondent taken into  
14 custody pursuant to this subsection shall be detained longer  
15 than necessary or longer than twenty-four hours. Consent to  
16 examination on the part of the respondent shall not be deemed  
17 to be consent for treatment. An order for examination as  
18 provided for in this section of the Mandated Community  
19 Treatment Act shall not override the respondent's right to  
20 refuse treatment as provided for in Section 43-1-15 NMSA 1978.

21 G. The respondent may request a second opinion and  
22 be examined by a willing physician of the respondent's choice  
23 using public or private resources available to the respondent.  
24 The physician may testify about this examination at the request  
25 of the respondent or the respondent's attorney.

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1 Section 7. WRITTEN LICENSED PHYSICIAN TREATMENT PLAN.--

2 A. The court shall not order mandated community  
3 treatment unless an examining physician:

4 (1) develops and provides to the court a  
5 proposed written treatment plan; and

6 (2) testifies to explain the written proposed  
7 treatment plan.

8 B. In developing a written proposed treatment plan,  
9 the physician shall take into account an advance directive, if  
10 existing, and provide the following persons with an opportunity  
11 to actively participate in the development of the plan:

12 (1) the respondent;

13 (2) the treating physician; and

14 (3) upon the request of the respondent, an  
15 individual significant to the respondent, including any  
16 relative, close friend or individual otherwise concerned with  
17 the welfare of the respondent. If the petitioner is a  
18 provider, the plan shall be provided to the court no later than  
19 the date of the hearing on the petition.

20 C. The written proposed treatment plan may include:

21 (1) evidence-based services such as the  
22 following:

23 (a) case management, community support  
24 services or an assertive community treatment team to provide  
25 care coordination;

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- 1 (b) counseling, psychotherapy or
- 2 individual or group therapy;
- 3 (c) medication;
- 4 (d) periodic blood tests or urinalysis
- 5 to determine compliance with prescribed medications;
- 6 (e) day or partial-day programming
- 7 activities;
- 8 (f) educational and vocational training
- 9 or activities;
- 10 (g) psychosocial rehabilitation
- 11 services;
- 12 (h) alcohol or substance abuse treatment
- 13 and counseling, and periodic tests for presence of alcohol or
- 14 illegal drugs for a person with a history of alcohol or
- 15 substance abuse;
- 16 (i) peer support services;
- 17 (j) crisis respite; or
- 18 (k) supervision of living arrangements;
- 19 or
- 20 (2) complementary and alternative health
- 21 practices, including traditional healing, chiropractic,
- 22 acupuncture and other similar practices.

23 D. If the written proposed treatment plan includes

24 medication, the plan shall include at least one other service

25 and:

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1 (1) reasonable assistance in addressing the  
2 respondent's basic human needs, including food, clothing and  
3 shelter; and

4 (2) specific actions, treatment and services  
5 designed to restore the respondent to a condition that would  
6 allow for the mandated community treatment order to be vacated.

7 E. If the written proposed treatment plan includes  
8 medication, the plan shall state whether such medication should  
9 be self-administered or should be administered by an authorized  
10 professional and shall specify the type and dosage range of  
11 medication most likely to provide maximum benefit for the  
12 respondent.

13 F. If the written proposed treatment plan includes  
14 alcohol or substance abuse counseling and treatment, the plan  
15 may include a provision requiring relevant testing for either  
16 alcohol or illegal substances; provided that the physician's  
17 clinical basis for recommending such plan provides sufficient  
18 facts for the court to find that:

19 (1) the respondent has a history of alcohol or  
20 substance abuse that is clinically related to the mental  
21 illness; and

22 (2) such testing is necessary to prevent a  
23 relapse or deterioration that would be likely to result in  
24 serious harm to the respondent or others.

25 G. The written proposed treatment plan shall not

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1 include electroconvulsive therapy.

2 H. Testimony about the written proposed treatment  
3 plan shall include an explanation of the recommended treatment  
4 and services, the rationale for the recommended treatment and  
5 services and the facts that establish that such treatment is  
6 the least restrictive alternative or least drastic means for  
7 the respondent at that time.

8 I. The respondent or the respondent's attorney  
9 shall be afforded an opportunity to offer testimony about why  
10 previously offered treatment was refused and may present  
11 testimony or witnesses describing an alternative treatment plan  
12 and the facts that establish that such a treatment plan is the  
13 most appropriate for the respondent and the least restrictive  
14 alternative or least drastic means for the respondent at that  
15 time.

16 Section 8. DISPOSITION.--

17 A. If after hearing all relevant evidence, the  
18 court finds that the criteria as set forth in Section 4 of the  
19 Mandated Community Treatment Act have been established by clear  
20 and convincing evidence, the court shall order the respondent  
21 to receive mandated community treatment for an initial period  
22 not to exceed six months.

23 B. In making its determination, the court shall  
24 take into consideration the reasons offered by the respondent  
25 as to why previously offered treatment was refused.

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1           C. In its order, the court shall state the  
2 mandated community treatment that the respondent is to receive,  
3 adopting the written proposed treatment plan or an alternative  
4 treatment plan that is appropriate for the respondent based on  
5 testimony received. A court may order the respondent to  
6 self-administer medication or accept the administration of such  
7 medication by an authorized professional as part of a mandated  
8 community treatment program.

9           D. The order may specify the type and dosage range  
10 of medications and shall be effective for the duration of the  
11 respondent's mandated community treatment. The treating  
12 physician may change the type and dosage of the medications to  
13 achieve optimal benefit within accepted treatment practices  
14 with the respondent's permission. The court may not order  
15 treatment that has not been recommended by the examining or  
16 treating physician or proposed by the respondent.

17           E. If after hearing all relevant evidence, the  
18 court finds that the criteria for mandated community treatment  
19 set forth in Section 4 of the Mandated Community Treatment Act  
20 have been established by clear and convincing evidence, but the  
21 court has yet to be provided with a written proposed treatment  
22 plan and testimony pursuant to Section 7 of that act, the court  
23 shall order the petitioning provider or other appropriate  
24 provider to examine the respondent, the respondent's treatment  
25 history and any valid advance directive and deliver to the

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1 court a written proposed treatment plan and testimony pursuant  
2 to Section 7 of that act as soon as practicable. Upon  
3 receiving the written proposed treatment plan and testimony,  
4 the court may order mandated community treatment as provided in  
5 Subsection A of this section.

6 F. If the petitioner is a provider that operates a  
7 mandated community treatment program, the court order shall  
8 direct the provider to provide or arrange for all mandated  
9 community treatment for the respondent throughout the period of  
10 the order. The respondent's expressed desires about the  
11 preferred provider of treatment or services in the court-  
12 ordered treatment plan shall be considered provided the court  
13 deems the choice to be reasonable and consistent with the  
14 treatment plan.

15 G. The provider of the mandated community treatment  
16 to the respondent shall apply to the court for approval before  
17 instituting a proposed material change in the court-ordered  
18 treatment plan for the respondent unless the change is  
19 contemplated in the order. An application for approval shall  
20 be served upon those persons required to be served with notice  
21 of a petition for an order authorizing mandated community  
22 treatment pursuant to this section. Nonmaterial changes may be  
23 instituted by the mandated community treatment program without  
24 court approval.

25 H. In the event the treating physician or provider

1 determines that the respondent no longer meets the criteria for  
2 mandated community treatment pursuant to Section 4 of the  
3 Mandated Community Treatment Act, the treating physician or  
4 provider shall notify the court within ten days of that  
5 determination and seek an order vacating the court order  
6 compelling the patient to undergo mandated community treatment.

7 I. For purposes of this section, "material change"  
8 means an addition or deletion of a category of treatment or  
9 service in the court-ordered treatment plan or a substantial  
10 deviation without the patient's agreement from the terms of the  
11 existing order relating to the administration or type of  
12 medications.

13 Section 9. APPLICATIONS FOR ADDITIONAL PERIODS OF  
14 TREATMENT.--

15 A. If a provider determines that the condition of a  
16 patient requires further mandated community treatment, the  
17 provider shall seek, prior to the expiration of the period of  
18 mandated community treatment ordered by the court, a second or  
19 subsequent order authorizing continued mandated community  
20 treatment for a period not to exceed one year from the date of  
21 the second or subsequent order. If the court's disposition of  
22 the application does not occur prior to the expiration date of  
23 the current order, the current order shall remain in effect  
24 until the court's disposition. A person subject to a  
25 subsequent petition or the person's attorney of record shall

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1 have the right to request that a six-person jury hear evidence  
2 and make findings as to whether the criteria for mandated  
3 community treatment continue to be met. The person subject to  
4 a subsequent petition found by the court to be subject to  
5 continuing mandated community treatment shall have a right to  
6 an expedited appeal. An order for an additional period of  
7 treatment shall be obtained pursuant to the provisions of the  
8 Mandated Community Treatment Act.

9 B. A court order requiring periodic blood tests or  
10 urinalysis for the presence of alcohol or illegal drugs shall  
11 be subject to review after six months by a physician, who shall  
12 be authorized to terminate the blood tests or urinalysis  
13 without further action by the court.

14 Section 10. APPLICATION FOR AN ORDER TO STAY, VACATE OR  
15 MODIFY--COMPLAINTS.--

16 A. In addition to any other right or remedy  
17 available by law with respect to the order for mandated  
18 community treatment, the patient, the patient's counsel or  
19 anyone acting on the patient's behalf may apply to the court to  
20 stay, vacate or modify the order. A copy of the application  
21 shall be served on the appropriate provider and the original  
22 petitioner. In the event the treating physician or provider  
23 determines that the patient no longer meets the criteria as set  
24 forth in Section 4 of the Mandated Community Treatment Act, the  
25 physician or provider shall notify the court within ten days of

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1 that determination and seek an order vacating the court order  
2 compelling the patient to undergo mandated community treatment.

3 B. At all times during the court process and during  
4 the mandated community treatment, the respondent shall be  
5 treated with respect and dignity and provided with as much  
6 autonomy as possible. Disagreement with the court-ordered  
7 treatment plan or the recommendations of the treating physician  
8 shall not be considered evidence by itself of clinical  
9 incapacity to make informed decisions.

10 C. If a respondent has a complaint about the  
11 treatment provided pursuant to a court order for mandated  
12 community treatment, the respondent may file a complaint  
13 through regular procedures as provided by law or regulation  
14 with the department. The department shall investigate the  
15 complaint and assist the respondent in seeking a resolution of  
16 the complaint to the extent possible.

17 Section 11. FAILURE TO COMPLY WITH MANDATED COMMUNITY  
18 TREATMENT.--

19 A. A physician may determine that a patient has  
20 failed to comply with mandated community treatment if, in the  
21 clinical judgment of the physician:

22 (1) the patient has failed or has refused to  
23 comply with the treatment ordered by the court;

24 (2) sufficient efforts were made to solicit  
25 compliance and the qualifications of the person making the

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1 efforts to solicit compliance were appropriate to those  
2 efforts; and

3 (3) the patient may be in need of an  
4 examination to determine whether the patient has a mental  
5 illness for which involuntary hospitalization is necessary. In  
6 determining whether the patient is in need of such an  
7 examination, the physician may consider the patient's refusal  
8 of any form of treatment or refusal to take or the patient's  
9 failure of a blood test, urinalysis or alcohol or drug test as  
10 required by the court order.

11 B. Upon the request of a physician making a  
12 determination set forth in Subsection A of this section, a  
13 provider may transport a patient to the hospital operating a  
14 mandated community treatment program or to any other hospital  
15 authorized by the department to receive such persons.

16 C. If deemed necessary and upon the request of a  
17 physician, a provider may request the aid of a law enforcement  
18 officer to take the patient into custody and transport the  
19 patient to the hospital operating the mandated community  
20 treatment program or to any hospital authorized by the  
21 department to receive such persons. A law enforcement officer  
22 may carry out a provider's directive pursuant to this section.

23 D. The patient may be retained for observation,  
24 care, treatment and further examination in the hospital for up  
25 to seventy-two hours to permit a physician to determine whether

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1 the patient has a mental illness and is in need of mandated  
 2 community treatment pursuant to the Mandated Community  
 3 Treatment Act. Any continued involuntary retention in a  
 4 hospital beyond the initial seventy-two-hour period shall be in  
 5 accordance with the provisions of the Mental Health and  
 6 Developmental Disabilities Code relating to the involuntary  
 7 admission and retention of a person. If at any time during the  
 8 seventy-two-hour period the person is determined not to meet  
 9 the involuntary admission and retention provisions of the  
 10 Mandated Community Treatment Act and the person does not agree  
 11 to stay in the hospital as a voluntary or informal patient, the  
 12 patient shall be released.

13 E. A patient's failure to comply with an order of  
 14 mandated community treatment is not by itself grounds for  
 15 involuntary civil commitment or a finding of contempt of court.

16 Section 12. SEQUESTRATION AND CONFIDENTIALITY OF  
 17 RECORDS.--

18 A. A petition initiating proceedings pursuant to  
 19 the provisions of the Mandated Community Treatment Act shall be  
 20 entitled "In the Matter of ....." and  
 21 shall set forth with specificity:

22 (1) the facts necessary to invoke the  
 23 jurisdiction of the court;

24 (2) the name, birth date and last known  
 25 residence address of the respondent of the petition; and

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1 (3) any other substantive matters required by  
2 the Mandated Community Treatment Act to be set forth in the  
3 petition.

4 B. All records or information concerning a party to  
5 a proceeding pursuant to the Mandated Community Treatment Act,  
6 including all pleadings and other documents filed in the  
7 matter, social records, diagnostic evaluations, psychiatric or  
8 psychological reports, videotapes, transcripts and audio  
9 recordings of interviews and examinations, recorded testimony  
10 and the mandated community treatment plan that was produced or  
11 obtained as part of a proceeding pursuant to the Mandated  
12 Community Treatment Act, shall be confidential and closed to  
13 the public.

14 C. The records described in Subsection B of this  
15 section shall be disclosed only to the parties and:

16 (1) court personnel;

17 (2) the respondent's attorney, personal  
18 representative, agent, surrogate, guardian or individual  
19 designated by the person to make health care decisions;

20 (3) law enforcement officials requested by the  
21 court to perform any duties or functions related to the  
22 respondent as deemed appropriate by the court;

23 (4) providers involved in the evaluation or  
24 treatment of the respondent; or

25 (5) any other person or entity, by order of

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1 the court, having a legitimate interest in the case or the work  
2 of the court including persons selected to evaluate the  
3 Mandated Community Treatment Act pursuant to Section 15 of that  
4 act.

5 D. Whoever intentionally and unlawfully releases  
6 any information or records closed to the public pursuant to  
7 the Mandated Community Treatment Act or releases or makes other  
8 unlawful use of the records in violation of that act is guilty  
9 of a petty misdemeanor.

10 Section 13. CRIMINAL PROSECUTION--CIVIL PENALTIES.--A  
11 person who knowingly makes a false statement or knowingly  
12 provides false information or false testimony in a petition or  
13 hearing pursuant to the provisions of the Mandated Community  
14 Treatment Act is subject to criminal prosecution, fines,  
15 penalties, attorney fees or court costs as determined by the  
16 court.

17 Section 14. EDUCATIONAL MATERIALS.--The department, in  
18 consultation with the administrative office of the courts,  
19 shall prepare educational and training materials on the  
20 provisions of the Mandated Community Treatment Act and the  
21 Mental Health Care Treatment Decisions Act that shall be made  
22 available to providers, judges, court personnel, law  
23 enforcement officials and the general public.

24 Section 15. EVALUATION OF THE MANDATED COMMUNITY  
25 TREATMENT ACT.--

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1           A. The department shall conduct a study, subject to  
2 available resources, of the Mandated Community Treatment Act  
3 after it has been in effect for five years and shall report its  
4 analysis of the effect of that act to the appropriate interim  
5 legislative committees no later than September 1, 2013. The  
6 report shall include:

7                   (1) analyses of the diagnoses of respondents;

8                   (2) treatment histories of the respondents  
9 prior to the time of the filing of the petition to the extent  
10 the information is available;

11                   (3) the length of time prior to the filing of  
12 the petition since respondents were last in a residential  
13 treatment setting or inpatient setting;

14                   (4) the number of petitions filed and the  
15 number granted;

16                   (5) the funding sources utilized by  
17 respondents and providers to pay for mandated community  
18 treatment;

19                   (6) the number of contacts the patient had  
20 with providers providing services under the Mandated Community  
21 Treatment Act;

22                   (7) the effectiveness of services provided for  
23 persons subject to mandated community treatment plans compared  
24 to services for similar persons not subject to mandated  
25 community treatment plans;

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1 (8) the satisfaction of persons subject to  
2 mandated community treatment plans with treatment received  
3 pursuant to those plans and other services and treatment  
4 received; and

5 (9) incidence of homelessness,  
6 hospitalization, arrests, incarceration of patients before  
7 mandated community treatment, to the extent available, and  
8 information on the incidence during mandated community  
9 treatment.

10 B. The human services department shall report  
11 annually to the appropriate interim legislative committees on  
12 the data gathered pursuant to Subsection A of this section,  
13 subject to available resources.

14 C. The department shall require mandated community  
15 treatment programs and providers and physicians that implement  
16 such orders to provide such information and data about the  
17 persons subject to mandated community treatment and about the  
18 treatment and services they receive as may be necessary to  
19 monitor the implementation of the Mandated Community Treatment  
20 Act and to ensure that the evaluation is conducted.

21 Section 16. PREEMPTION.--County and municipal ordinances  
22 are preempted when they conflict with the Mandated Community  
23 Treatment Act.

24 Section 17. DELAYED REPEAL.--Sections 1 through 16 of  
25 this act are repealed effective June 30, 2017.

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